



# The Attorney General of Texas

August 24, 1981

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Honorable James S. McGrath  
Criminal District Attorney  
Jefferson County, Texas  
P.O. Box 2555  
Beaumont, Texas 77704

Opinion No. MW-362

Re: Termination of county  
employees

Dear Mr. McGrath:

You ask the question:

Does a single commissioner acting as road and  
bridge administrator have the power to discharge  
an employee?

You have informed us that by "road and bridge administrator" you mean county commissioner acting as ex officio road commissioner pursuant to article 6762, V.T.C.S. This statute was amended by Senate Bill 1242 enacted by the regular session of the sixty-seventh legislature and effective June 16, 1981, when it was signed by the Governor. It now provides that in all counties the members of the commissioners court shall be ex officio road commissioners of their respective precincts. This provision is not automatically effective, but must be adopted by the court pursuant to article 6769, V.T.C.S.

Article 6763, V.T.C.S., as amended by Senate Bill 1242, provides in part:

Subject to authorization by the commissioners court, each ex officio road commissioner may employ persons for positions in the commissioner's precinct paid from the county road and bridge funds. Each ex officio road commissioner may discharge any county employee working in the commissioner's precinct if the employee is paid from county road and bridge funds.

Under the circumstances stated in article 6763, V.T.C.S., a single commissioner acting as ex officio road commissioner has power to discharge an employee.

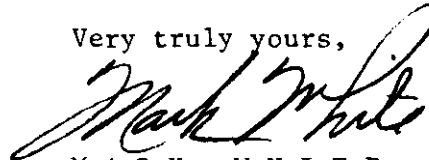
You next ask whether an official appointed by the commissioners court has power to discharge an employee. You do not inquire about a particular official, so we must answer in general terms.

Where the court is statutorily authorized to appoint an official, there must be statutory authority for the official to hire and fire employees. Where the legislature has authorized the delegation of the court's powers, it has done so by express legislation as to the powers to be exercised by a subordinate. Guerra v. Rodriguez, 239 S.W.2d 915 (Tex. Civ. App. - San Antonio 1951, no writ)(construing article 6713, V.T.C.S.). See, e.g., V.T.C.S. art. 4478--4485 (hospital superintendent). The answer to your question depends in each case on the statutes defining the powers of the particular official.

S U M M A R Y

A single county commissioner acting as road commissioner pursuant to article 6762, V.T.C.S., has the power to discharge an employee paid from county road and bridge funds. Whether an official appointed by the commissioners court has power to discharge an employee depends on the statute governing the official in question.

Very truly yours,



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